

GRANTING MINERALS, INCLUDING OIL AND GAS, ON CERTAIN LANDS IN THE CROW INDIAN RESERVATION, MONT., TO CERTAIN INDIANS

AUGUST 11, 1959.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs;
submitted the following

R E P O R T

[To accompany S. 1715]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1715), to grant minerals, including oil and gas, on certain lands in the Crow Indian Reservation, Mont., to certain Indians, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

1. On page 2, line 22, after the word "devisees," insert "or successors in interest,".
2. On page 2, line 23, after the word "leases" insert a period and delete the remainder of the sentence.

BACKGROUND

The act of June 4, 1920 (41 Stat. 751), provided for the allotting of the Crow Reservation to the individual Indians. Section 6 of that act, as amended by the act of May 26, 1926 (44 Stat. 658), reserved to the Crow Tribe for a period of 50 years after June 4, 1920, all minerals, including oil and gas, on the allotted lands. Provision was made for leasing the reserved minerals for a term of not to exceed 10 years with an option to renew for one additional term of 10 years. At the end of the 50-year period the minerals become the property of the allottee or his heirs.

PURPOSE OF THE BILL

The purpose of S. 1715, introduced by Senator Murray, as amended by the committee, is to clarify the intent of section 6 of the act of 1920, as amended, with respect to the ultimate disposition of the minerals, and to provide for the leasing of these minerals under the provisions of the 1938 Indian Mineral Leasing Act (52 Stat. 347).

Under existing authority oil and mineral development on the reservation are discouraged because leases may not be made for a period extending beyond 1970. The Crow Tribe has been able to realize increased revenues from oil resources in recent years. In order to encourage further development of its mineral potential, and to make possible long-term leases, the tribe has requested the enactment of this legislation. The language of S. 1715 will make the 1920 act, as amended, conform to the rule prescribed by statute for mineral leases of land belonging to other tribes, and to the practice with respect to commercial leases and leases of public domain lands.

As amended, S. 1715 would make it clear that at the end of the 50-year period the title to the minerals shall go to the allottee or his heirs, or devisees, or successors in interest, or their heirs or devisees, subject to any outstanding leases. Provision is also made for the issuance of a trust title to the minerals in the case of an allottee or an Indian heir or devisee unless he has received a fee patent for the surface of the lands overlying the minerals.

Where the heir or devisee of a mineral interest was a non-Indian, he would acquire unrestricted title to that interest by operation of law.

The favorable report of the Department of the Interior and the report of the Bureau of the Budget are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 21, 1959.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MURRAY: Your committee has requested a report on S. 1715, a bill to grant minerals, including oil and gas, on certain lands in the Crow Indian Reservation, Mont., to certain Indians, and for other purposes."

We recommend that the bill be enacted, but we express no opinion about the clause beginning on page 2, line 25.

1. Section 6 of the act of June 4, 1920 (41 Stat. 751), as amended by the act of May 26, 1926 (44 Stat. 658), reserved to the Crow Tribe for a period of 50 years after June 4, 1920, all minerals, including oil and gas, on lands allotted pursuant to the act, and provided that at the end of the 50-year period such minerals shall become the property of the allottee or his heirs unless otherwise provided by Congress. S. 1715 provides that at the end of the 50-year period such minerals shall go to the devisees of the allottee if he has died testate, rather than to his heirs. This change is fair and equitable.

2. Section 6 of the 1920 act, as amended, does not specifically say that the allottee or his heirs shall acquire title to the minerals at the end of the 50-year period even though he may have previously disposed of the surface of the land. S. 1715 makes this result clear, and the clarification is desirable.

The bill goes farther, however, and the clause beginning on page 2, line 25, provides that the Indian shall get the minerals regardless of the reference or lack of reference to minerals in any instrument that conveyed the surface of the land. This means that even if an Indian sold and was paid for his entire interest in the land, including his interest in the minerals at the end of the 50-year reservation in favor of the tribe, the conveyance would be invalidated by the bill insofar as the minerals are concerned, and the minerals would remain the property of the Indian or his heirs. Congress probably has the authority to take this action because it reserved in the 1920 act the right to legislate further with respect to the minerals. Whether it should do so by a general provision that does not consider the facts in individual cases is a subject on which we express no opinion.

3. Section 6 of the 1920 act, as amended, does not specify whether the allottee or his heirs will receive a trust or an unrestricted title to the minerals at the end of the 50-year period. S. 1715 provides that the title shall be a trust title unless the entire mineral interest in a tract is owned by persons who at that time hold an unrestricted title to the lands overlying the minerals, in which case the title to the minerals will be conveyed to the Indian by unrestricted fee patent. This will avoid most of the title complexities incident to the existence of both unrestricted and restricted interests in the same property. Where the heir or devisee of a mineral interest is a non-Indian he will acquire unrestricted title to that interest by operation of law (see *Bailess v. Paukure*, 344 U.S. 171 (1952)).

4. Section 6 of the 1920 act, as amended, permits the reserved minerals to be leased during the 50-year period, on behalf of the Crow Tribe, for a term of not to exceed 10 years with an option to renew for one additional term of 10 years. S. 1715 provides that such leases may be made in accordance with the provisions of the act of May 11, 1938, which governs leases on other tribal lands. Such leases may be for a term of not to exceed 10 years and as long thereafter as minerals are produced in paying quantities. This change is desirable and will make the act conform to the rule prescribed by statute for mineral leases of lands belonging to other tribes.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 14, 1959.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
New Senate Offices Building, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in response to your letter of April 20, 1959, requesting the comments of the Bureau of the Budget on S. 1715, a bill to grant minerals, including oil and gas, on certain lands in the Crow Indian Reservation, Mont., to certain Indians, and for other purposes.

The purpose of S. 1715 is to revise leasing procedures for mineral interests in allotted lands on the Crow Indian Reservation and to clarify and revise the situation regarding disposition of these interests.

In general, the provisions of the bill appear to be desirable. However, the clause beginning on page 2, line 25, would have the effect of voiding all conveyances of an allottee's future mineral interest. We understand that a number of such conveyances have been executed. It is our belief that enactment of S. 1715 in its present form would work unwarranted hardship on the purchasers of these interests. Therefore, we recommend enactment of the bill only if it were amended by deleting the clause beginning on page 2, line 23.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (S. 1715) as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

ACT OF JUNE 4, 1920 (41 STAT. 751), AS AMENDED BY THE ACT OF
MAY 26, 1926 (44 STAT. 658)

SEC. 6. [That any and all minerals, including oil and gas, on any of the lands to be allotted hereunder are reserved for the benefit of the members of the tribe in common and may be leased for mining purposes, with the consent of the tribal council under such rules, regulations, and conditions as the Secretary of the Interior may prescribe, but no lease shall be made for a longer period than ten years, but the lessees may have the right to renewal thereof for a further period of ten years upon such terms and conditions as the Secretary of the Interior may prescribe, and agreed to by said tribal council: *Provided*, That when any land is leased for mining purposes and development thereunder shall indicate the presence of minerals including oil and gas in paying quantities, the lessee or lessees shall proceed with all reasonable diligence to complete the development under said lease to extract the mineral including oil and gas from the land leased and to bring the product mined or extracted into market as speedily as possible unless the extraction and sale thereof be withheld with the consent of the Crow Tribe of Indians: *Provided, however*, That allotments hereunder may be made of lands classified as valuable chiefly for coal or other minerals which may be patented as herein provided with a reservation, set forth in the patent, of the coal, oil, gas, or other mineral deposits for the benefit of the Crow Tribe: *And provided further*, That at the expiration of fifty years from the date of approval of this Act, unless otherwise ordered by Congress, the coal, oil, gas, or other mineral deposits upon or beneath the surface of said allotted lands shall become the property of the individual allottee or his heirs.]

(a) *Any and all minerals, including oil and gas, on any of the lands to be allotted hereunder are reserved for the benefit of the members of the tribe*

in common and may, with the consent of the tribal council, be leased for mining purposes in accordance with the provisions of the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396 A-f), under such rules, regulations, and conditions as the Secretary of the Interior may prescribe: Provided, That when any land is leased for mining purposes and development thereunder shall indicate the presence of minerals, including oil and gas, in paying quantities, the lessee or lessees shall proceed with all reasonable diligence to complete the development under said lease to extract the mineral, including oil and gas, from the land leased and to bring the product mined or extracted into market as speedily as possible unless the extraction and sale thereof be withheld with the consent of the Crow Tribe of Indians: Provided further, That allotments hereunder may be made of lands classified as valuable chiefly for coal or other minerals which may be patented as herein provided with a reservation, set forth in the patent, of the coal, oil, gas, or other mineral deposits for the benefit of the Crow Tribe: Provided further, That at the expiration of fifty years from the date of approval of this Act, unless otherwise ordered by Congress, the coal, oil, gas, or other mineral deposits upon or beneath the surface of said allotted lands shall become the property of the individual allottee or his heirs or devisees, or successors in interest, or their heirs or devisees, subject to any outstanding leases.

(b) Title to the minerals so granted shall be held by the United States in trust for the Indian owners, except that if upon the expiration of said fifty years, the entire Indian interest in the minerals within any allotment or parcel thereof is granted by this Act to a person or persons who at that time hold an unrestricted title to the lands overlying such minerals, then the Secretary of the Interior shall by fee patent transfer to such person or persons the unrestricted fee simple title to such minerals, which title shall vest in such person or persons as of the date of the patent.



